

**Smoking Guns: Minor Slips Can Get Your Store Sued**

By: Michael J. Coughlin, Esq., and Michael J. Coughlin, Jr., Esq.

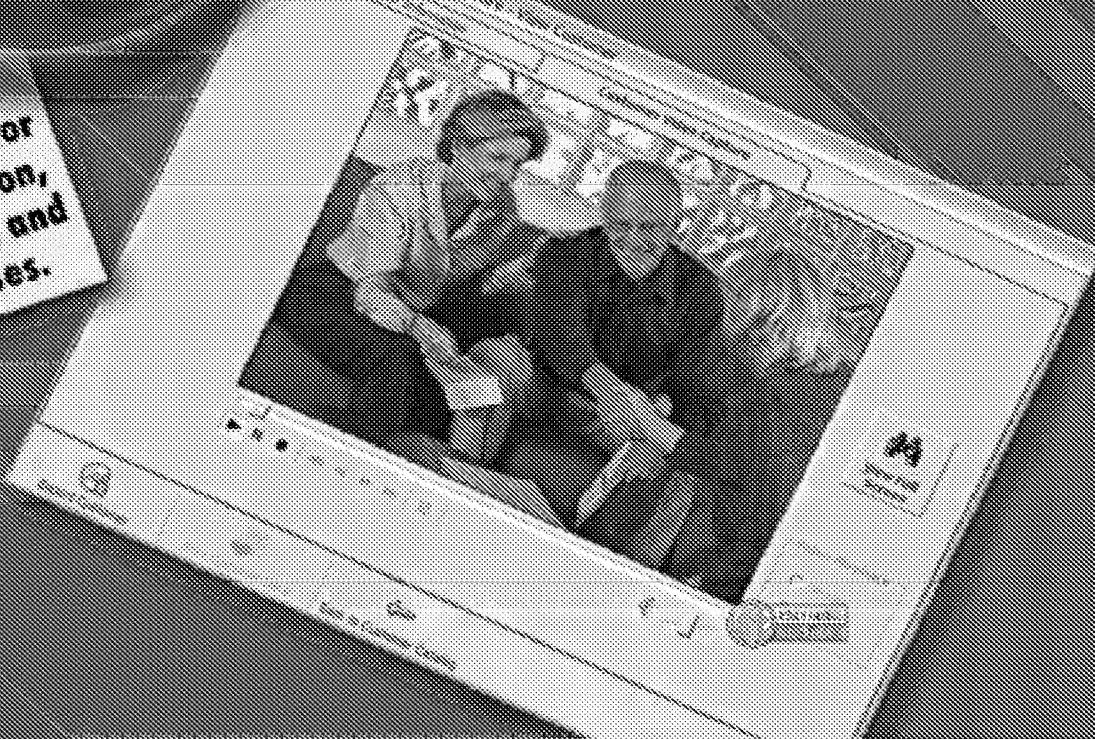


## **F&I, GET READY FOR YOUR CLOSE-UP**

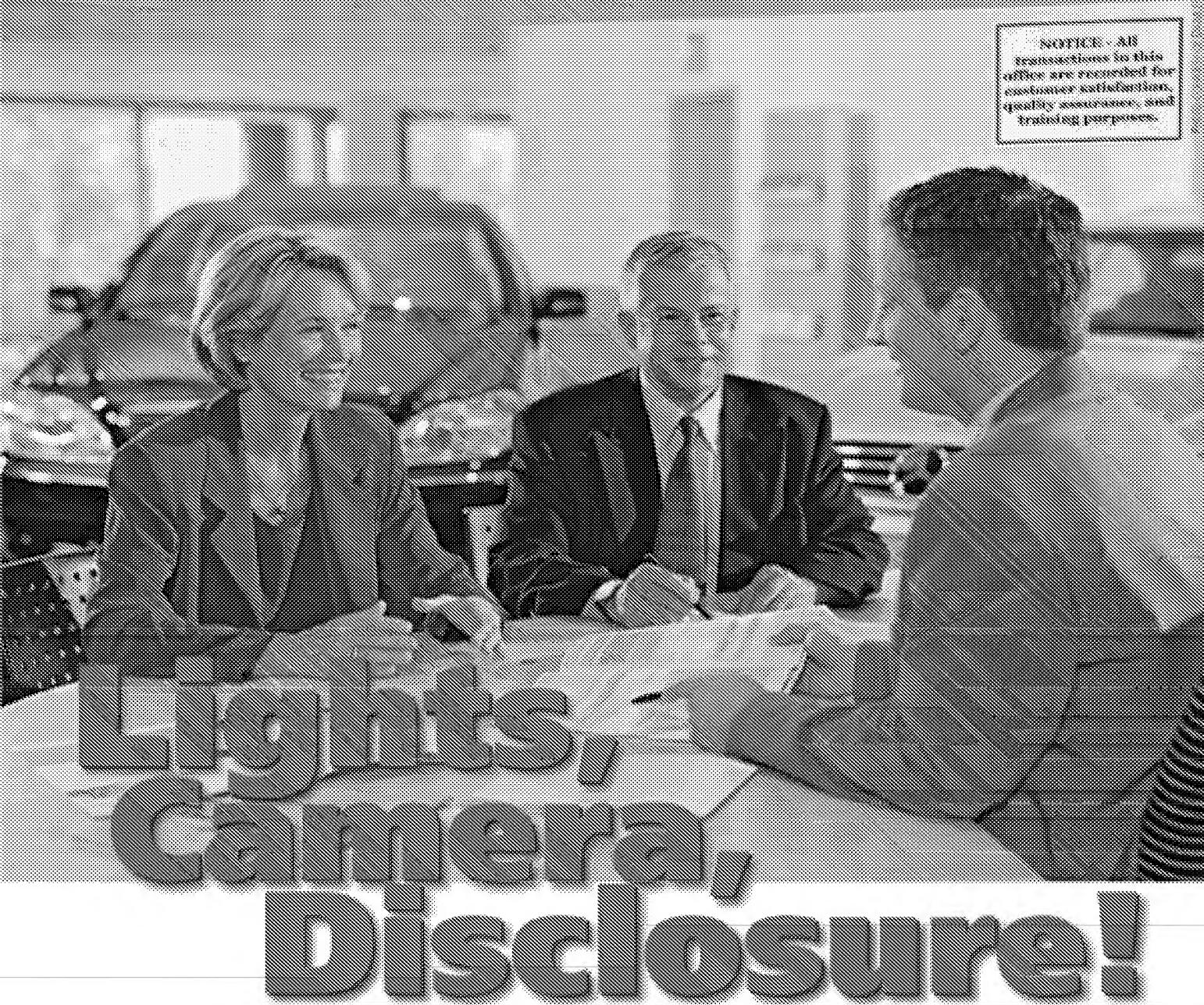
**Work Your Lender  
Relationships  
for More Approvals**

**100% Turnover  
MAKING THE  
DREAM COME TRUE**

**NOTICE**—all  
transactions in this  
office are recorded for  
customer satisfaction,  
quality assurance, and  
training purposes.



NOTICE - All transactions in this office are recorded for customer satisfaction, quality assurance, and training purposes.



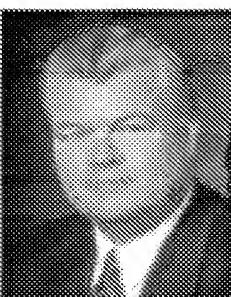
*Taping F&I managers in action has helped dealers bring in hundreds of dollars more per car—and saved them tens of thousands in legal fees.*

By Joan Shim

**H**all Automotive Group in Virginia Beach, Va., started recording F&I transactions last year to keep legal problems at bay. Since then, recording has had other unforeseen benefits.

"I've actually used footage to help the police catch a felon who stole someone else's identity," says Fred Miller, executive vice president of Hall Automotive.

The customer walked into a Hall dealership attempting to buy a car with the stolen identity. He made it past the salesperson but was foiled in the F&I office. Right when



Fred Miller  
Hall Automotive

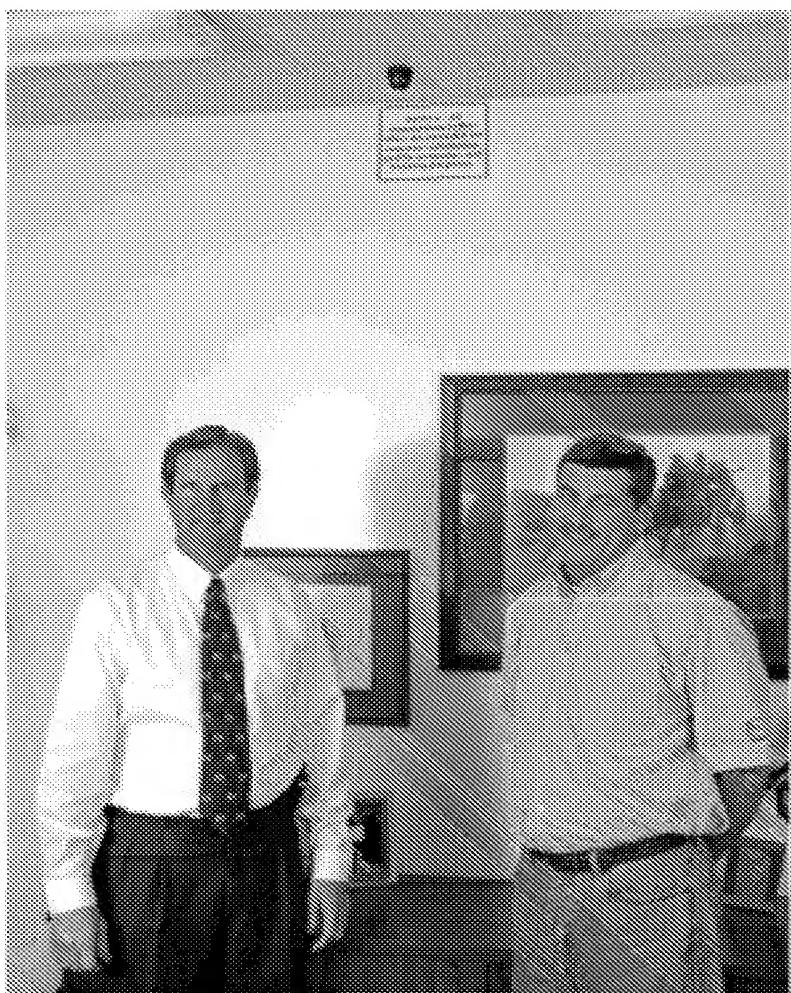
the customer walked in, the finance manager explained—on cameras—the dealership policy of recording transactions. The customer adamantly refused to be recorded and left.

The finance manager suspected something was wrong and called the police. The police came in, reviewed the recording and identified the customer as a wanted felon suspected of running a car theft operation. Using the footage, the police arrested the man shortly after.

Although most dealers aren't regularly fighting crime with cameras, they've found that recording transactions benefits their business from several angles. Cameras in the F&I office have proven instrumental for legal protection, training and to ensure proper disclosure.

### JUST FOR THE RECORD

After seeing the steady stream of press about state attorney general offices investigating F&I practices, the ex-



A clearly displayed sign informs customers about the recording policy in the office of Finance Director Rodger Keeler (left), pictured here with Jim Bagan of Roger Beasley Mazda.

### Recording Technology

Dealers who started taping several years ago used bulky cameras and VHS tapes. Today, vendors offer streamlined equipment, digital technology, more functionality and easier data storage.

SmartEye, from Texas-based InvoVision Aftermarket Systems, includes a ceiling-mounted, full-color dome camera that is a few inches wide. Transactions are digitally recorded and can be burned onto CDs. With SmartEye NLT, dealers can archive footage to the Internet. All transactions are backed up to a secure Web server, and authorized users can access them from any Web browser.

SmartEye NLT costs \$2,500 for hardware and \$2 per transaction for Internet archival. The software is free.

The SmartEye system lets dealers record only customer transactions. They are stored in a searchable database and can be pulled up using time, customer name, or type of transaction; for example, a dealer can access all transactions where a customer declined a service contract, says Matt Nease, VP of director of information technology.

The Finance Profit Center in Kokomo, Ind., offers a system that can include audio and video recording with Web storage and retrieval. The pricing varies depending on what products the dealer selects with the system.

Camera Ready in New Orleans started installing cameras in dealerships about five years ago. The company just developed an automated digital system that it hasn't yet introduced.

The cost for basic equipment alone is approximately \$3,000, says Mike Howell, president of Camera Ready. The system records transactions by date, time and camera or office number.

executives at the Roger Beasley Auto Group decided to start recording.

"I felt it was the best way to ensure that the integrity we expected of our people was being upheld," says Jim Bagan, executive vice president for the Roger Beasley Group, based in Austin, Texas. "The real hook was the liability protection the cameras provided against misrepresentation of my people, the dealership or the consumer."

Bagan oversees F&I for the four Roger Beasley Mazda stores in the Austin area. Since installing the cameras, he recalls five times when a customer or attorney tried to accuse the dealership of some misbehavior. Each time, he offered to meet with them to review the recordings and the complaint went away.

Red McCombs Automotive Group initially started taping for training purposes. "I quickly observed that recordings had value to be able to refresh a customer's memory about what actually transpired during the closing," says Kerman Ford, chief operating officer of McCombs Automotive. The Texas-based dealer group started taping transactions on VHS about four years ago. It has since



"Less than one percent of my customers refuse to be taped," says Roger Beasley's Jim Bagan.

gone to digital recording (see the related sidebar).

Once a customer purchased a very expensive vehicle that happened to be out of the manufacturer's warranty, remembers Ford. The finance manager pleaded with the consumer to consider purchasing a service contract. The customer stubbornly refused.

"As luck would have it, within 30 days he had a major engine failure and wanted the dealership to handle it," says Ford. "He tried to say that he wasn't aware that there wouldn't be a warranty; he assumed everything came with at least a 90-day warranty."

Fortunately, the dealership had on tape the customer's refusal of the service contract and the finance manager telling him there would be no coverage. "I'm convinced that this would have resulted in some sort of filing against us had we not had strong evidence that he knew exactly what refusing coverage meant," says Ford.

One F&I manager finds that recording transactions ends the "he said, she said" that happens when a customer complains. "Now it isn't my word against the customer's word. It's there on camera," says Anthony Foote, finance director at Saturn of Warwick (R.I.).

Cameras also enable dealer groups to deliver a consistent message across multiple stores.

"One dealer said installing cameras has 'McDonaldized' the F&I process," says Carl Farris, president of ADS Management Group. Virginia-based ADS works

with about 350 dealerships on the East Coast.

The mere presence of cameras holds F&I staff instantly accountable for giving by-the-book presentations. "Finance managers are aware that they're being taped. That keeps them honest in following the process," says Jim Klemes, general manager at Herb Chambers Dodge in Danvers, Mass.

### CUSTOMERS ON CAMERA

One concern in monitoring the F&I box is the effect it might have on customers. Is it too intrusive? Will it make customers defensive?

Will it affect the interaction and your chances of selling to them? Will they get up and leave?

Ford of the McCombs Group says customers are used to being recorded. "You're taped at banks, airports—it's so common everywhere. I just think people view it as normal business," he says.

Customers are actually comforted and reassured by the cameras, says Bagan. Seven out of 10 customers at Roger Beasley Mazda will look at the camera and start waving when they're told the transaction is being recorded.

"Most customers walk into the box prepared for something ugly to happen. They've heard all the nightmare stories," explains Bagan. But once they hear that the transaction is being recorded for their protection, their guards go down and their demeanor changes. Bagan has seen this happen repeatedly while reviewing the tapes.

Miller of Hall Automotive says that after watching hundreds of videos, he has not once seen a customer looking uncomfortable or constantly looking at the camera. Customers seem to forget they're being taped once they hear it's for everyone's protection.

### WATCHING TAPE

Ashley isn't the only ones who train by watching tape. Dealership management can review actual F&I transactions to identify coaching opportunities. Finance managers can watch themselves on tape to fine-tune their presentations and work on their tone, mannerisms

and interpersonal skills.

"I equate it to improving your golf swing," says Dave Frisbie, president of Profit Portfolio, F&I partner of the Herb Chambers Group. "I had never seen my golf swing and, when I did, it was easier to correct problems with the swing."

Frisbie will review a snippet of a manager's footage if his or her numbers fall. He will also pull tapes of managers with exceptional performance so that others can learn from them.

Dealership management usually does not know how F&I people actually cover the contract because they do it behind closed doors, says Ford. At the McCombs Group, management reviewed recordings and discovered that some F&I people were rude and unfriendly. Many of them would rush through the presentation and finish too quickly. Ford says he was able to address these shortcomings.

At Roger Beasley Mazda, tapes revealed that one manager was pointing at and talking down to the customer. The manager saw himself on tape and corrected his behavior. He was selling since the very next day, says Bagan.

At Hall Automotive, management even uses the footage to better train salespeople in the skill of turnover. "It's a training tool for the salespeople because they are in the initial taping when the customer comes into the finance office," says Farris. "There's a procedure for a proper turnover to the finance office. That's recorded and they're able to critique it."

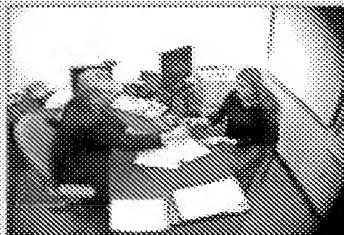
### F&I MANAGERS ON THE RECORD

Many F&I managers initially aren't too happy with the idea of their transactions being recorded. "There was a lot of resistance from F&I managers in the beginning, as with most changes," says Ford.

But the majority have learned to accept the recording.

"Now it's just a part of doing business," says Jeff Davis, general manager at Herb Chambers Honda of Boston. "It took some time to reinforce it and let the managers understand that we weren't using it for punitive reasons."

Finance managers who are confident in the integrity of their presentations seem comfortable being recorded. "My top performers said they have nothing to hide...



**Innovative Aftermarket Systems'**  
SmartEye software lets dealers review  
deals from their desktops.

Others were skeptical," says Prisbie.

Saturn of Warwick's Furtach not only accepted that his transactions would be recorded, he welcomed it.

"It was a natural transition because if you know you're doing things right and you believe in full disclosure, there's nothing to worry about," he explains. "I didn't have a problem whatsoever."

## RECORDING PAYS OFF

Miller of Hall Automotive attributes per-vehicle retail increases of \$175 per car to a selling system that includes recording transactions. He uses the multimedia presentation and menu from Innovative Aftermarket Systems (IAS), along with the company's SmartEye.NET system.

Because the system holds F&I managers to soliciting all customers all the time, Hall Automotive's service-contract penetration rose from 50 percent to about 62 percent. GAP rose from 27 percent to 42 percent, and car care climbed from about 28 percent to 35 percent.

The Roger Beasley Maeda dealerships have seen similar gains. "Before I had cameras I was running around \$575 a copy," says Hagan. "Since the cameras we're at \$800 a copy. I went from a 34 percent warranty penetration to 58 percent. I've had about a 10 to 12 percent bump across the board on all my products due to the simple fact that everybody gets presented everything every time."

Although other factors may have influenced these increases, it's indisputable that being taped has motivated finance managers to be thorough, consistent and conscientious.

## A DOUBLE-EDGED SWORD

Out of the 22,000 dealers nationwide, at least 600 to 700 are using the SmartEye recording system, says IAS President Bob Corbin.

Most camera-shy dealers seem deterred by the fact that cameras can catch their people doing something wrong. Customers and attorneys can use dealers' footage as evidence against them if an F&I person has indeed erred.

This is why Ferman Motor Car Co. doesn't record transactions. Stephen Straska, vice president and corporate counsel for Ferman, is apprehensive about recording. "Unless dealers have been vetted by their lawyers and consultants in every aspect of compliance, they can't have the confidence that all their people are doing things perfectly."

Straska continues to evaluate the recording approach but believes training and developing a compliance culture are most important. If you can standardize forms and work processes and ensure proper disclosure, recording might not be necessary.

The risk, however, is that F&I managers might keep making dangerous mistakes unless someone starts monitoring them.

"A dealer who isn't being proactive is eventually going to become a target," says Johnny Garlich, president of Heart Dealer Financial Services in St. Louis. Garlich recently moved some major dealers to SmartEye.NET.

"The current breed of plaintiffs' attorneys are looking to use unfair trade practices as a lever to force the dealer to pay legal fees," says Garlich. "The result is that a small judgment rendered for the consumer can translate to a large legal bill for the plaintiff attorney that the dealer is obligated to pay."

Corbin says it's better for dealers to catch the errors on their own cameras than for "20/20," "60 Minutes" or "Dateline" to catch them.

"If you're illegal today, you need to get legal whether you record or not," says Corbin. "Recording is just a very inexpensive and effective way to spot-check F&I people."

Another objection Corbin hears from dealers is that managers might not sell as

aggressively or be as thorough under the pressure. Their nervousness might affect the numbers. But in most instances, dealers' numbers have gone up as a result of recording.

Other dealers, particularly smaller ones, don't want to pay for recording technology, says Jim Gantner, general counsel for Continental National Services Corp. However, it might save dealers money in the long run.

"It's cheaper than your first lawsuit, even if you win," says Gantner. "You'll rack up tens of thousands of dollars in legal fees. This is money well spent in defense."

Gantner says the decisions to record should be made on a dealership-by-dealership basis. The dealer should weigh the risk of getting something wrong on tape against the ability to train personnel and reduce the chance of litigation.

## TIPS FOR TAPPING

Dealers considering cameras in their F&I offices should do the following as a rule of thumb:

- Have a clearly displayed sign explaining that the transaction is being recorded for the customer's protection and for training purposes. Direct customers' attention to the sign and the camera so they are fully aware of the policy.

- Get the customer's consent—or refusal—to be recorded, on tape. Even a customer's refusal may come in handy if that customer ever has a complaint or attempts to take you to court.

- Make sure the customer and F&I manager are both clearly in the camera's view and audible.

- Have a written policy of how long the recordings will be kept on file.

Also, find out the state's specific wire-tapping laws. "When it comes to taping, there's no standard rule for what consent from the customer you'll need," says Straska. In Florida, where Ferman Motor Car Co. is located, you need the customer's consent when videotaping with sound.

The Reporters Committee for Freedom of the Press in Arlington, Va., offers summaries of wiretapping laws for all 50 states on its Web site ([www.rcfp.org/taping/states.html](http://www.rcfp.org/taping/states.html)). ■